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"EQUITABLE REMEDIES IN DIGITAL AND PHYSICAL REALMS: A COMPREHENSIVE ANALYSIS OF INJUNCTIONS IN IP LITIGATION"

~ Chandan Sha[1]

ABSTRACT

In intellectual property rights (IPR) litigation, injunctions are often the backbone of fair enforcement practice as a remedy when damages are insufficient to provide adequate protection. This research paper gives a detailed examination of the legal background of injunctive relief both in physical and digital space, including their statutory basis in civil procedure, specific relief acts and international agreements like the TRIPS Agreement. The paper examines the historical development of the three-part standard, which includes: prima facie case, balance of convenience, and irreparable injury, from fundamental English precedent and its comparative differences from the United States four-part equitable standard which arose in eBay Inc. v. MercExchange. Special focus is placed on courts' creative use of injunctive powers when the infringement context is so intricate as to call for extraordinary forms of relief such as mandatory injunctions for the restoration of a positive result; anticipatory Quia Timet actions to prevent future harm; ex-parte Anton Piller search orders to preserve evidence; and Mareva freezing orders to stop the dissipation of assets. In addition, the article examines the judicial adaptation in the digital age as seen in John Doe (Ashok Kumar) orders against unknown infringers and the rise of dynamic injunctions against rogue piracy websites and domain variations. Finally, this paper underscores the need for a compromise to be found between the enforcement of IP rights and the constitutional protections for freedom of expression, trade and due process.

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I. INTRODUCTION AND STATUTORY BASES OF INJUNCTIVE REMEDIES IN IPR

Because of IP's intangible and reproducible characteristics, judicial courts have exercised their equitable jurisdiction by granting injunctions, which are personal orders issued in personam, preventing an infringing party from committing a wrongful act or requiring affirmative action to put things back in order.

The basis of the statutory framework for obtaining injunctive relief in common law and civil law is rooted in procedural and specific relief codes and in specific IP legislation. Such as section 108 of the Patents Act, 1970, section 135 of the Trade Marks Act,1999 and section 51 of the Copyright Act, 1957. The applicable provisions of the specific statute, interpreted in the light of the provisions of Order XXXIX Rules 1 to 5 and section 151 of the Code of Civil Procedure, 1908, and section 36 to 39 of the Specific Relief Act, 1963, highlight the discretionary nature of the relief of injunction, which demands principles of equity, justice and good conscience. Further, Article 50 of the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS Agreement) mandates that member nations empower their judicial authorities to order prompt and effective provisional measures to prevent an infringement from occurring and to preserve relevant evidence.

II. INTERIM ORDERS: THE THREE-PRONGED TEST OR GLOBAL DIVERGENCE OF JUDICIAL ARCHITECTURE

An IP owner who applies for an interim or interlocutory injunction before a trial does not decide the substantive issues of the case. Although it originated in the English House of Lords in *American Cyanamid Co. v. Ethicon Ltd.,* the three-part test was initially formulated there, and it has been adopted by the courts in numerous cases. The third prong of the test, balance of convenience, is a judicial comparative balancing process: a court's evaluation of the prejudice to the plaintiff if relief is denied, versus the hardship to the defendant if the interim order is issued. Indian jurisprudence, as reflected in *Martin Burn Ltd. v. R.N. Banerjee and Gujarat Bottling Co. Ltd. v. Coca-Cola Co.,* confirms that a prima facie case is a bona fide claim which requires judicial investigation.

The eBay doctrine had a profound effect on the availability of legal remedies for NPEs and SEP holders, and raised the bar considerably for non-practicing entities to obtain a permanent

injunction. In a nutshell, it established a strict four-part test: (1) irreparable injury; (2) absence of adequate legal remedies; (3) public interest is not being served by granting a permanent injunction; and (4) an equitable remedy is warranted based on a balance of hardships.

III. EXTRAORDINARY INJUNCTIVE FRAMEWORKS IN THE PHYSICAL AND DIGITAL SPHERE.

The world of intellectual property disputes has grown beyond just physical manufacturing to the complex digital world, and courts have developed new, specialized, extraordinary measures to abate infringement based on the unique enforcement issues they face.

i. PROHIBITORY VS. MANDATORY INTERIM INJUNCTION.

A prohibitory injunction is preservative in character; it restrains a party from committing or continuing an alleged infringement, thereby maintaining the existing status quo.[2] In contrast, an interim mandatory injunction is corrective and affirmative; it compels a party to perform a positive act, such as removing infringing products from distribution or taking down online listings, thereby altering the existing state of affairs.[3]

Because an interim mandatory injunction effectively grants the principal relief prior to a full trial on the merits, courts impose a significantly higher standard of proof.[4] In the landmark ruling *Dorab Cawasji Warden v. Coomi Sorab Warden*, the Supreme Court of India established that an interim mandatory injunction can be granted only in exceptional cases where the plaintiff demonstrates a "strong case upon the merits" a standard substantially higher than a mere triable *prima facie* case and proves that affirmative intervention is necessary to prevent severe irreparable mischief.[5] In commercial IP enforcement, such as *Under Armour Inc. v. Avengers*, courts issue mandatory orders directing the recall, surrender, and destruction of counterfeit goods bearing deceptively similar trade marks.[6]

ii. ANTICIPATORY RELIEF AGAINST APPREHENDED INFRINGEMENT OR QUIA TIMET INJUNCTIONS.

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[2] See *Mandatory vs Prohibitory Injunctions — Key Differences With Recent Case Law*, LAWCURL BLOG (2021), https://www.lawcurb.in/post/mandatory-vs-prohibitory-injunctions (last visited Sept. 28, 2026).
[3] *Id.*
[4] *Id.*
[5] *Dorab Cawasji Warden v. Coomi Sorab Warden*, (1990) 2 SCC 117, 121 (Ind.).
[6] See *Under Armour Inc. v. Avengers*, CS (COMM) No. 112/2018 (Del. Dist. Ct. 2021); Simran Bhullar, *Using Injunctions to Prevent IP Infringement*, INDIA BUS. L.J. (Feb. 12, 2021), https://law.asia/injunctions-prevent-ip-infringement/ (last visited Sept. 28, 2026).

Derived from the Latin phrase meaning "because he fears or apprehends", a *Quia Timet* action is an anticipatory equitable remedy that enables an IP owner to seek injunctive relief before an actual infringement or commercial launch has occurred.[7] Originating from the historic English decision in *Fletcher v. Bealey*, this doctrine rests on the maxim that equity intervenes to prevent an impending wrong, recognizing that "a stitch in time saves nine".[8]

To successfully obtain a *Quia Timet* injunction, the plaintiff must satisfy a rigorous evidentiary standard. As settled in *Mars Inc. v. Kumar Krishna Mukherjee* and reiterated in *Super Cassettes Industries Ltd. v. MySpace Inc.*, the applicant must demonstrate: (1) proof of an imminent, substantial, and real danger of infringement; and (2) evidence that the apprehended damage, if allowed to materialise, would be of a substantial and irreparable magnitude for which monetary compensation would be entirely inadequate.[9] Recent judicial developments in pharmaceutical and trade mark disputes, such as *Cadila Healthcare Ltd. v. Morepen Laboratories Ltd.* and *Sun Pharma v. Cipla Ltd.*, demonstrate that rights holders need not wait for infringing drugs or goods to enter the market; discovering an infringing trade mark application or preparatory manufacturing activities provides sufficient grounds for anticipatory restraint.[10]

iii. ANTON PILLER SEARCH ORDERS AND MAREVA FREEZING INJUNCTIONS.

In high-stakes IP litigation involving covert counterfeiting, trade secret theft, or software piracy, plaintiffs face the immediate risk that rogue defendants will destroy, conceal, or alter incriminating evidence upon receiving notice of legal proceedings. To prevent the frustration of justice, equity developed the *Anton Piller* order an ex-parte civil search warrant named after *Anton Piller KG v. Manufacturing Processes Ltd*.[11] An *Anton Piller* order authorises the plaintiff's representatives and court-appointed commissioners to enter the defendant's premises without prior warning to search, inspect, and seize infringing materials, manufacturing dies,

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[7] See Bhushan Shah, Meeta Kadhi & Kanak Kadam, *Understanding Quia Timet Action vis-a-vis Intellectual Property Rights*, MANSUKHLAL HIRALAL & CO. REPOSITORY (Oct. 25, 2023), https://mhcolaw.com/insights (last visited Sept. 28, 2026).

[8] *Fletcher v. Bealey*, (1885) 28 Ch. D. 688, 698 (Eng.). See also G. Kalyan Jhabakh & Prashant Alai, *Quia Timet Action – Meaning And Judicial Developments Regarding Its Scope*, LIVELAW (July 8, 2021), https://www.livelaw.in/law-firms/law-firm-articles-/quia-timet-action-intellectual-property-right-equity-177138 (last visited Sept. 28, 2026).

[9] *Mars Inc. v. Kumar Krishna Mukherjee*, (2003) 26 PTC 60, 65 (Del.); *Super Cassettes Indus. Ltd. v. MySpace Inc.*, (2011) 48 PTC 49, 53 (Del.).

[10] *Cadila Healthcare Ltd. v. Morepen Laboratories Ltd.*, OA No. 171/2021 in CS No. 111/2021 (Mad. HC Mar. 22, 2021); *Sun Pharma Indus. Ltd. v. Cipla Ltd.*, A. No. 1980/2021 in CS No. 176/2021 (Mad. HC May 27, 2021).

[11] *Anton Piller KG v. Manufacturing Processes Ltd.*, Ch. 55 (CA) (Eng.). See also *Anton Piller Orders*, FASKEN KNOWLEDGE (Dec. 16, 2021), https://www.fasken.com/en/knowledge/2021/12/anton-piller-orders (last visited Sept. 28, 2026).

and digital devices.[12] To prevent abuse of this intrusive remedy, courts enforce strict procedural safeguards, requiring a strong *prima facie* case, clear proof of grave damage, and convincing evidence that the defendant possesses incriminating materials likely to be destroyed.[13]

In tandem with evidence preservation, courts utilize *Mareva* injunctions named after *Mareva Compania Naviera SA v. International Bulkcarriers SA* to freeze the financial assets of an infringer.[14] Operating *in personam*, a *Mareva* freezing order restrains the defendant from dissipating, transferring, or removing bank accounts and commercial assets out of the court's jurisdiction pending judgment. When granted together, *Anton Piller* search orders and *Mareva* asset-freezing orders constitute a formidable dual remedy, securing both the physical/digital evidence and the financial means to satisfy a subsequent decree for damages.

iv. JOHN DOE (ASHOK KUMAR) DISCUSSES ORDERS AND DYNAMIC INJUNCTIONS IN DIGITAL PIRACY.

The emergence of ubiquitous internet connectivity, file-sharing protocols, and anonymous online platforms introduced unprecedented challenges to traditional IP enforcement, as copyright infringers frequently operate under pseudonyms, masked WHOIS records, or offshore servers.[15] To counter widespread digital piracy, Indian courts adapted the common law John Doe order styled locally as an "Ashok Kumar" order after the archetypal Hindi cinema placeholder name.[16] First recognized in *Taj Television Ltd. v. Rajan Mandal*, a John Doe order is an ex-parte injunction issued against unknown, unidentified defendants, empowering rights holders to serve the order upon Internet Service Providers (ISPs), domain registrars, and telecom operators to block access to infringing broadcasts or online files.[17]

However, traditional website-blocking orders proved vulnerable to circumvention: as soon as a court injuncted a specific Uniform Resource Locator (URL) or primary domain, rogue operators immediately generated "hydra-headed" mirror, redirect, or alphanumeric

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[12] See Lenita Thomas Kutty, *Circumstances for Anton Piller Order and Mareva Injunction in IPR*, 3 JUS CORPUS L.J. 112, 114 (2022), https://www.juscorpus.com/circumstances-for-anton-piller-order-and-mareva-injunction-in-ipr/ (last visited Sept. 28, 2026).

[13] See *Autodesk Inc. v. Bhagat*, 2008 SCC OnLine Del 709, ¶ 14; *Understanding Anton Piller Orders: Judicial Standards for Evidence Preservation in IP Litigation*, SUPREME TODAY AI (2025), https://supremetoday.ai/issue/judicial-standards-anton-piller-orders-evidence-preservation-ip-disputes (last visited Sept. 28, 2026).

[14] *Mareva Compania Naviera SA v. International Bulkcarriers SA*, 2 Lloyd's Rep. 509 (CA) (Eng.).

[15] See Dipdirekha Mohapatra & Sourabh Batar, *Intellectual Property Rights and Digital Piracy: Emerging Legal and Enforcement Challenges in India*, 2026 INT'L J. ECON. PRAC. & THEORIES 5323, 5324 (2026).

[16] *Id.* at 5326.

[17] *Taj Television Ltd. v. Rajan Mandal*, (2003) 26 FSR 22, 28 (Del.).

replacement websites (e.g., changing domain extensions or adding numerical suffixes).[18] Requiring rights holders to file a fresh lawsuit for every newly spawned domain created prohibitive litigation costs and undue judicial burden.[19]

To resolve this enforcement impasse, the High Court of Delhi introduced the groundbreaking remedy of "Dynamic Injunctions" in *UTV Software Communications Ltd. v. 1337X.to*, drawing upon European guidance and Singapore jurisprudence in *Disney Enterprises Inc. v. M1 Ltd.*[20] A dynamic injunction extends the scope of an existing blocking order to cover all newly created mirror, redirect, or alphanumeric variations of an injuncted "rogue website" without requiring a new judicial proceeding.[21] Under the procedural framework established in *UTV Software*, rights holders who identify a new mirror website file an affidavit before the Joint Registrar of the High Court confirming that the newly discovered domain is functionally identical to the primary injuncted site. Upon administrative satisfaction, the Joint Registrar issues directions to ISPs and government agencies (DoT and MeitY) to disable access to the new URLs.[22] Subsequent rulings, including *Dishoom John Doe Order* (*Eros International v. BSNL*), *Warner Bros. Entertainment Inc. v. Tamilrockers*, and *Snapdeal Pvt. Ltd. v. Snapdeallucky-draws.org.in*, have firmly established dynamic injunctions as a staple remedy against digital piracy and counterfeit domain masking.[23]

IV. JUDICIAL SAFEGUARDS, PROPORTIONALITY, AND PUBLIC INTEREST

While extraordinary injunctive remedies provide vital protection to IP owners, their ex-parte and expansive nature poses inherent risks to constitutional guarantees of freedom of expression, legitimate trade, and due process.[24] Site-wide blocking orders and dynamic injunctions can

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[18] See Obhan & Pillai, *Dynamic Injunctions To Tackle Digital Piracy In India*, LEGAL 500 (Dec. 18, 2020), https://www.legal500.com/intelligence/search?q=Obhan+Mason (last visited Sept. 28, 2026).

[19] See Namrta Sudan Rai & Isha Singh, *India's First Dynamic Injunction Against 'Rogue Websites': An Analysis of the UTV Software Case*, EXPERT SPEAK (Dhir & Dhir Advocates 2019), https://dhirassociates.com (last visited Sept. 28, 2026).

[20] *UTV Software Communications Ltd. v. 1337X.to*, 2019 SCC OnLine Del 8002; *Disney Enterprises Inc. v. M1 Ltd.*, SGHC 206 (Singapore). See also Anjana Raghunath, *Dynamic Injunction- An effective remedy for IPR infringement?*, NUJS INTELLECTUAL PROPERTY & TECHNOLOGY LAWS SOCIETY BLOG (Aug. 18, 2022), https://nujsiplaw.wordpress.com/2022/08/18/dynamic-injunction-an-effective-remedy-for-ipr-infringement/ (last visited Sept. 28, 2026).

[21] *UTV Software Communications Ltd.*, 2019 SCC OnLine Del 8002, ¶ 45.

[22] *Id.* ¶ 48; See Namrta Sudan Rai & Isha Singh, *India's First Dynamic Injunction Against 'Rogue Websites': An Analysis of the UTV Software Case*, EXPERT SPEAK (Dhir & Dhir Advocates 2019), https://dhirassociates.com (last visited Sept. 28, 2026).

[23] *Eros International Media Ltd. v. BSNL*, Suit No. 751/2016 (Bom. HC July 26, 2016) (*Dishoom John Doe Order*); *Warner Bros. Entertainment Inc. v. Tamilrockers*, CS (COMM) 369/2019 (Del. HC); *Snapdeal Pvt. Ltd. v. Snapdeallucky-draws.org.in*, CS (COMM) 264/2020 (Del. HC).

[24] See Dipdirekha Mohapatra & Sourabh Batar, *Intellectual Property Rights and Digital Piracy: Emerging Legal and Enforcement Challenges in India*, 2026 INT'L J. ECON. PRAC. & THEORIES 5323, 5327 (2026).

inadvertently sweep up non-infringing web pages, over-blocking legitimate e-commerce, media, or educational content.[25] Furthermore, granting ex-parte orders against unidentified rogue websites challenges the fundamental principle of *audi alteram partem* (the right to be heard).[26]

To mitigate these risks, courts enforce strict safeguards and proportionality principles. In *Dishoom John Doe Order*, Justice G.S. Patel emphasized that courts must adopt a "granular approach" rather than granting sweeping site-wide blocks.[27] The Bombay High Court directed that initial blocking should be restricted to verified, page-specific URLs rather than entire domain names, and mandated that ISPs display a standardized “error page” notifying users of the judicial order, attorney contact details, and the right of any aggrieved party to approach the court within 48 hours to modify the order.[28] Similarly, in patent litigation involving life-saving pharmaceuticals such as *Bayer Corp. v. Natco Pharma Ltd.* courts explicitly factor public interest into the balance of convenience, ensuring that injunctive relief does not restrict public access to affordable healthcare.[29]

V. CONCLUSION

In IP litigation, the law of injunctions is a living mixture of statutory procedural law and developing principles of equity. Courts have been extremely innovative in devising new remedial measures, ranging from traditional injunctions barring brick and mortar passing off to today's dynamic injunctions against online global infringement. Judicial decisions strike a balance between the rigor of the three-part test, the strong procedural protections, proportionality, and public interest arguments, and ensure that injunctive relief remains a powerful, fair, and just tool to protect IP rights in today's world.

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[25] *UTV Software Communications Ltd. v. 1337X.to*, 2019 SCC OnLine Del 8002; *Disney Enterprises Inc. v. M1 Ltd.*, SGHC 206 (Singapore). See also Anjana Raghunath, *Dynamic Injunction- An effective remedy for IPR infringement?*, NUJS INTELLECTUAL PROPERTY & TECHNOLOGY LAWS SOCIETY BLOG (Aug. 18, 2022), https://nujsiplaw.wordpress.com/2022/08/18/dynamic-injunction-an-effective-remedy-for-ipr-infringement/ (last visited Sept. 28, 2026).

[26] See Obhan & Pillai, *Dynamic Injunctions To Tackle Digital Piracy In India*, LEGAL 500 (Dec. 18, 2020), https://www.legal500.com/intelligence/search?q=Obhan+Mason (last visited Sept. 28, 2026).

[27] *Eros International Media Ltd. v. BSNL*, Suit No. 751/2016, ¶ 7 (Bom. HC July 26, 2016).

[28] *Id.* ¶¶ 24–26.

[29] *Bayer Corp. v. Natco Pharma Ltd.*, (2013) Order No. 45 (India); See Shirin Syed, *Implementation of TRIPS Flexibilities and Injunctions: A Case Study of India* 7 (South Centre Research Paper No. 194, 2024), https://hdl.handle.net/10419/286393.